

Gen. Op. No. 11 - II 803

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March 16, 2011

Ms. Georgette Williams  
210 N. Caesar Rodney Ave.  
Wyoming, DE 19934

**RE: Freedom of Information Act Complaint Against  
Camden-Wyoming Sewer and Water Authority**

Dear Ms. Williams:


You have requested a determination pursuant to 29 *Del. C.* § 10005(e) as to whether the Camden-Wyoming Sewer and Water Authority (CWSWA) has violated the Freedom of Information Act (FOIA) by failing to give you records you had requested. Based on information provided by the CWSWA, we have determined the CWSWA is not a public body within the meaning provided by 29 *Del. C.* § 10002(c), and therefore has no obligation under FOIA to make its records public.

The definition of "public body" has two parts, which are conjunctive. The first part of the definition describes a public body as any body or entity "established by the General Assembly . . . or . . . by any body established by the General Assembly or appointed by any body or public official of the State or otherwise empowered by any state governmental entity[.]" 29 *Del. C.* § 10002(c). Whether the CWSWA meets that part of the definition is immaterial, because the definition modifies those criteria with the phrase "which: (1) is supported . . . by any public funds; or (2) expends or disburses any

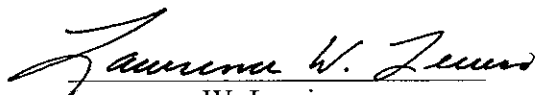
public funds . . . ; or (3) is impliedly or specifically charged by any other public official, body or agency to advise or make reports, investigations or recommendations.” *Id.* In other words, a public body is an entity that was created in a certain way, *and* which either receives or disburses public funds or has the function of advising, reporting or recommending to another. “Public funds” are monies from the State or one of its political subdivisions. 29 *Del. C.* § 10002(f).

According to the CWSWA it neither receives nor disburses any public funds. It is not charged, impliedly or specifically, with making reports or giving advice or recommendations to a public body or public official. *See*, 16 *Del. C.* ch. 14, “Water and/or Sewer Authorities.” Therefore, the CWSWA is not a public body within the meaning of FOIA.

Very truly yours,

  
Judy Oken Hodas  
Deputy Attorney General

APPROVED

  
Lawrence W. Lewis  
State Solicitor

cc: Mary E. Sherlock, Esquire  
Opinion Coordinator